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IMPLEMENTATION OF THE DECLARATION ON THE DENUCLEARIZATION OF AFRICA

Report of the Third Meeting of the Group of Experts to Draw up a Draft Treaty or Convention on the Denuclearization of Africa

Note by the Secretary-General

The General Assembly, in its resolution 47/76 of 15 December 1992, inter alia, requested:

> "the Secretary-General, in consultation with the Organization of African Unity, to take appropriate action to enable the Group of Experts designated by the United Nations in cooperation with the Organization of African Unity to meet during 1993 at Harare, in order to draw up a draft treaty or convention on the denuclearization of Africa, and to submit the report of the Group of Experts to the General Assembly at its forty-eighth session".

The present report of the Group of Experts is submitted by the Secretary-General pursuant to the above-mentioned request.

ANNEX

Report of the Third Meeting of the Group of Experts to Draw up a Draft Treaty or Convention on the Denuclearization of Africa

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Letter of transmittal dated 26 July 1993 from the Chairman of the Third Meeting of the Group of Experts to Draw up a Draft Treaty or Convention on the Denuclearization of Africa addressed to the Secretary-General

I have the honour to submit herewith the report of the Third Meeting of the Group of Experts to Draw up a Draft Treaty or Convention on the Denuclearization of Africa. The Group was appointed by you in pursuance of General Assembly resolution 47/76 of 15 December 1992.

The experts appointed by you were the following:

Ambassador Oluyemi Adeniji, Director General,
Ministry of Foreign Affairs, Nigeria

Ambassador Fathi Marei,
Adviser on Arms Control Issues
to the Minister of Foreign Affairs, Egypt

Mrs. Liberata Mulamula, Counsellor,
Africa and Middle East Department,
Ministry of Foreign Affairs,
United Republic of Tanzania

Mr. Gift Punungwe, Chief,
International Organizations Department,
Ministry of Foreign Affairs, Zimbabwe

The Hon. Mr. Louis Amedee Darga,
Member of Parliament,
Mauritius

Mr. Cheickh Sylla, Technical Adviser,
Cabinet Office,
Ministry of Foreign Affairs, Senegal

Ambassador Ibrahima Sy, Executive Secretary,
Office of the Organization of African Unity,
New York

Colonel Gustave Zoula,
Chief of Section for Defence and Security,
Organization of African Unity,
Addis Ababa, Ethiopia

Dr. Mohamed Elbaradei, Assistant Director-General, Division of External Relations, International Atomic Energy Agency (IAEA), Vienna, participated as an expert; and Ms. Bronte Moules, Alternate Representative on the Australian delegation to the Conference on Disarmament, Geneva, participated as an expert observer from a Party to the South Pacific Nuclear-Free-Zone Treaty (Treaty of Rarotonga).

Ambassador Jeremy B. Shearer, Deputy Director-General of the Multilateral Branch of the Department of Foreign Affairs of South Africa, Mr. Roger Jardine, Nuclear Scientist, African National Congress (ANC), Johannesburg, and Dr. Solly Skosana, Secretary for Environmental Affairs, Pan Africanist Congress of Azania (PAC), Johannesburg, attended the meeting as expert observers.

The Third Meeting of the Group of Experts, which was organized by the United Nations in cooperation with the Organization of African Unity, was held in Harare from 5 to 8 April 1993.

The members of the Group of Experts wish to express their appreciation for the assistance that they received from the staff members of the Secretariat of the United Nations. They wish, in particular, to convey their special thanks to the Secretary of the Group of Experts, Mr. Sola Ogunbanwo, Senior Coordinator of the United Nations Disarmament Fellowship, Training and Advisory Services Programme, who also participated as Chief Expert Adviser.

I have been requested by the Group of Experts, as its Chairman, to submit to you, on its behalf, this report, which was unanimously endorsed.

(Signed) Ambassador Oluyemi ADENIJI
Chairman of the Group of Experts
to Draw up a Draft Treaty or Convention
on the Denuclearization of Africa

I. INTRODUCTION

1. In its resolution 47/76 of 15 December 1992, the General Assembly of the United Nations, bearing in mind resolutions CM/Res.1342 (LIV) and CM/Res.1375 (LVI) Rev.1 of the Organization of African Unity (OAU), inter alia, requested the Secretary-General, in consultation with the Organization of African Unity,

> "to take appropriate action to enable the Group of Experts designated by the United Nations in cooperation with the Organization of African Unity to meet during 1993 at Harare, in order to draw up a draft treaty or convention on the denuclearization of Africa, and to submit the report of the Group of Experts to the General Assembly at its forty-eighth session".

2. A meeting of experts, which was organized by the United Nations in cooperation with OAU, took place in Harare from 5 to 8 April 1993. Mrs. Thelma Awori, United Nations Resident Coordinator in Zimbabwe, presided over the Opening Meeting. His Excellency Ambassador Goche, Senior Deputy Secretary, Ministry of Foreign Affairs of Zimbabwe, delivered a keynote address on behalf of His Excellency Dr. Nathan Shamuyarira, Minister for Foreign Affairs of Zimbabwe. This was followed by statements by H.E. Ambassador Ibrahima Sy, Executive Secretary, OAU, New York, by H.E. Ambassador Oluyemi Adeniji, Chairman of the Group of Experts, and Mr. Sola Ogunbanwo, Senior Coordinator of the United Nations Disarmament Fellowship, Training and Advisory Services Programme.

3. The following experts designated by the United Nations, in cooperation with OAU, took part in the meeting: Ambassador Fathi Marei, Adviser on Disarmament Issues to the Egyptian Minister for Foreign Affairs; Ambassador Oluyemi Adeniji, Director-General of the Nigerian Ministry of Foreign Affairs; Mrs. Liberata Mulamula, Counsellor, Africa and Middle East Department in the Ministry of Foreign Affairs of the United Republic of Tanzania; Mr. Gift Punungwe, Director of the International Organizations Department in the Zimbabwean Ministry of Foreign Affairs; Mr. Cheickh Sylla, Technical Adviser, Cabinet Office, Ministry of Foreign Affairs of Senegal; the Hon. Mr. Louis Amedee Darga, Member of Parliament, Port Louis, Mauritius; Ambassador Ibrahima Sy, Executive Secretary of the OAU Office in New York; and Colonel Gustave Zoula, Chief of Section for Defence and Security of OAU in Addis Ababa.

4. Dr. Mohamed Elbaradei, Assistant Director-General, Division of External Relations, International Atomic Energy Agency (IAEA), Vienna, participated as an expert; and Ms. Bronte Moules, Alternate Representative on the Australian delegation to the Conference on Disarmament, Geneva, participated as an expert observer from a Party to the South Pacific Nuclear-Free-Zone Treaty (Treaty of Rarotonga).

5. Ambassador Jeremy B. Shearer, Deputy Director-General of the Multilateral Branch of the Department of Foreign Affairs of South Africa, Mr. Roger Jardine, Nuclear Scientist, African National Congress (ANC), Johannesburg, and Dr. Solly Skosana, Secretary for Environmental Affairs, Pan Africanist Congress of Azania (PAC), Johannesburg, attended the meeting as expert observers.

6. Representatives of the following countries attended the meeting as observers: Ethiopia, Kenya, Malawi, United Republic of Tanzania, Tunisia and Nigeria.

Election of officers

7. The meeting elected the following officers:

Chairman: Ambassador Oluyemi Adeniji
Vice-Chairman: Ambassador Dr. Fathi Marei
Rapporteur: Mr. Gift Punungwe
Chief Expert Advisers: Ambassador Ibrahima Sy
Mr. Sola Ogumbanwo

II. REPORT OF THE MEETING OF EXPERTS

8. After the election of Officers, the experts adopted the following agenda:

1. General comments on the two working papers listed below under paragraph 9 (a) and (b).

2. Preparation of a Draft Treaty or Convention on the Denuclearization of Africa:

(a) Preamble;

(b) Usage of terms;

(c) Application of the Treaty;

(d) Renunciation of nuclear explosive devices;

(e) Prohibition of testing of nuclear explosive devices;

(f) Declaration, dismantling, destruction or conversion of nuclear explosive devices and the facilities for their manufacture;

(g) Prohibition of dumping of radioactive wastes;

(h) Peaceful nuclear activities;

(i) Verification of peaceful uses;

(j) Physical protection of nuclear materials and facilities;

(k) Prohibition of armed attack on nuclear installations;

(l) Mechanism for compliance;

(m) Reports and exchange of information;

(n) Amendments;

(o) Reservations;

(p) Duration and withdrawal;

(q) Signature, ratification and entry into force;

(r) Depository functions;

(s) Status of the annexes;

(t) IAEA safeguards;

(u) African Commission on Nuclear Energy;

(v) Complaints procedure;

(w) Protocol to be signed by the nuclear Powers not to attack States of the zone;

(x) Protocol to be signed by the nuclear Powers not to test or assist or encourage the testing of nuclear explosive devices anywhere within the African Nuclear-Weapon-Free Zone;

(y) Protocol to be signed by extra-zonal States internationally responsible for territories within the zone.

3. Other matters.

4. Consideration and adoption of the report.

5. Closure of the meeting.

9. The Meeting had before it the following working papers submitted by the Secretariat, in order to facilitate structured discussions during the Meeting:

(a) Current proposals and strategy for the preparation of a Treaty on the Denuclearization of Africa;

(b) Working text of an African Nuclear-Weapon-Free Zone Treaty.

10. The experts decided to postpone discussion of the preamble to the Treaty until after they had dealt with the rest of the Treaty, since consideration of the body of the Treaty would help focus the ideas that must go into the preamble.

11. With regard to the name to be given to the instrument for the establishment of a Nuclear-Weapon-Free Zone in Africa, the experts recommended that it be called a treaty rather than a convention, as this was in line with the name given to similar instruments in Latin America and the South Pacific. The experts were also of the opinion that the African zone should be called an African Nuclear-Weapon-Free Zone as this would clearly reflect, in addition to

its non-proliferation content, Africa's commitment to harness nuclear energy for developmental purposes. Noting the differences in title between the Latin American and South Pacific zones in this regard, the experts noted that practical effect could be given to Africa's wish to ban all nuclear explosive devices, whether for peaceful use or not, by stating this in the main body of the Treaty.

12. The experts were of the opinion that usage of such terms as "African Nuclear-Weapon-Free Zone", "territory", "nuclear explosive device", "stationing", "dumping" and "nuclear facilities" should be explained in the Treaty. It was recommended that a map of the zone of application of the Treaty would need to be drawn up by an experienced cartographer. In this connection the experts recalled OAU resolution CM/Res.676 (XXXI), as it relates to a definition of the continent of Africa. The experts were of the opinion that, except where otherwise specified, the Treaty and its Protocols should apply to territory within the African Nuclear-Weapon-Free Zone, which would mean internal waters, territorial sea and archipelagic waters, the seabed and subsoil beneath, the land territory and the airspace above them.

13. As regards renunciation of nuclear devices, it was proposed that the obligation should be more explicit and should include research, development, manufacture, stockpiling, acquisition, possession and control of nuclear explosive devices. It was also considered that the term "nuclear explosive device" was wider than "nuclear weapon" and that for the purposes of the Treaty, it would be more appropriate. In this regard it was agreed that the basic obligations of States Parties should include undertakings not to engage in the activities enumerated above, not to seek or receive assistance to engage in those activities, not to assist in or encourage those activities, not to test any nuclear explosive device, to prohibit in their territories the testing of nuclear explosive devices, not to assist or encourage the testing of nuclear explosive devices by any State anywhere, and to prohibit the stationing of nuclear explosive devices in their territories.

14. For any State with nuclear weapon capability, and in possession of nuclear explosive devices already developed before the coming into effect of this Treaty, the experts recommended provisions whereby such a State would declare the existence of such facilities and nuclear explosive devices and either put into place a procedure for the dismantling and destruction of such facilities and devices, or the conversion of the facilities to peaceful uses, or certify that such steps have already been taken. In either case, these measures would have to be verified by IAEA.

15. The experts were also of the opinion that the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa adequately covered, in its relevant aspects, the problems of the dumping of radioactive wastes. In this connection they suggested that Parties to the African Nuclear-Weapon-Free Zone Treaty, who are not Parties to the Bamako Convention and therefore are not bound by it, should nevertheless undertake to support effective implementation of and apply measures equivalent to those contained in the Bamako Convention with regard to the prohibition of the dumping of radioactive waste. The issue was raised of the obligation that a State may have to take back spent fuel or waste products

resulting from an initial export by it of the original material. These and other issues connected with the Bamako Convention need to be further studied.

16. Turning to the question of peaceful nuclear activities, experts emphasized that the Treaty should strike a balance between the requirements of non-proliferation and the need to promote cooperation in the peaceful uses of nuclear energy in Africa. To that end they agreed that nothing in the Treaty should be interpreted to obstruct access to the use of nuclear technology for peaceful purposes, while at the same time emphasizing that all activities for the peaceful use of nuclear energy should be conducted under strict non-proliferation measures in order to provide assurance of exclusively peaceful uses. While recommending that comprehensive safeguards agreements should be entered into between the parties and IAEA and that it may be necessary to ensure transparency by operating regional facilities especially for sensitive parts of the fuel cycle, the experts nevertheless emphasized that Africa should not bar itself from access to technology that can prove vital in future, and that non-proliferation requirements should be assured in a positive manner, through transparency, rather than negatively, through the renunciation of certain processes such as reprocessing and enrichment by the African States.

17. The experts considered the question of the physical protection of nuclear materials and facilities and proposed that, for the purposes of the Treaty, nuclear installations should include nuclear power and research reactors, fuel fabrication, uranium enrichment, isotopes separation and reprocessing facilities, as well as any other installations with fresh or irradiated nuclear fuel and materials in any form and establishments storing significant quantities of radioactive materials. They stressed that, in order to prevent theft or other unauthorized use and handling, States Parties needed to undertake to apply measures of physical protection that provide protection equivalent to that provided for in the Convention and the Guidelines on The Physical Protection of Nuclear Materials, developed by the International Atomic Energy Agency. The experts discussed at length prohibition of armed attacks on nuclear installations and agreed that such attacks were not permissible in any circumstances. They proposed that Parties to the Treaty should undertake not to take, assist, or encourage any action aimed at an armed attack by conventional or other means against nuclear installations in the African Nuclear-Weapon-Free Zone.

18. The experts were of the view that any amendments to the Treaty proposed by a Party should be decided upon by a two-thirds majority of the Parties to the Treaty and that an amendment so adopted should enter into force for all the Parties upon the receipt by the Depository of the twenty-seventh instrument of ratification.

19. The experts were of the opinion that there should be no provision for reservations to the Treaty. It was also agreed that the Treaty should be of unlimited duration and that withdrawal should only take place after a notice of withdrawal of 12 months.

20. With regard to signature, ratification and entry into force of the Treaty, the experts were of the opinion that, while it would be preferable for the Treaty to enter into force as soon as possible, it was also necessary, for its effectiveness, that it enter into force for as many countries as possible. To

this end they recommended that the Treaty should enter into force on the date of deposit of the twenty-seventh instrument of ratification (a majority of African States) and that, for those States that ratify the Treaty after this, the Treaty would enter into force for each State on the date of deposit of its instrument of ratification.

21. With regard to IAEA safeguards, the experts noted that it was a treaty requirement of the NPT that Parties conclude safeguards agreements with IAEA within 18 months of joining the Treaty. They proposed that Parties to the African Nuclear-Weapon-Free Zone Treaty who do not have an NPT type agreement in force should also enter into a safeguards agreement with IAEA within 18 months of the date of entry into force of the African Treaty or of the date of entry into force of the Treaty for that Party. For purposes of IAEA safeguards, it was recommended that each Party should transmit to the Commission, for its information, a copy of the overall conclusions of the most recent report by IAEA on its inspection activities in the territory of the Party concerned, and advise the Commission promptly of any subsequent findings of IAEA in relation to those conclusions. It was also suggested that, for purposes of ensuring confidentiality, the information furnished by the contracting Parties should not be, totally or partially, disclosed or transmitted to third parties, by the addressees of the reports, except when contracting Parties give their express consent.

22. With regard to the mechanism for compliance with Treaty obligations, the experts were of the opinion that such a mechanism should present a balance between the prohibitive and promotional aspects of the Treaty. To that end, they urged the establishment of an African Commission on Nuclear Energy (AFCONE) which would have responsibility for collating information about the nuclear activities of States, bringing into effect the complaints procedure of the Treaty in case of violation of Treaty obligations, [reviewing the application of IAEA safeguards to peaceful nuclear activities in the African nuclear weapon free zone], requesting an extraordinary inspection by IAEA, encouraging regional cooperation in the peaceful uses of nuclear energy, and promoting international cooperation with extra-zonal States for peaceful uses of nuclear energy. It was suggested that such a commission be composed of 12 members elected by the Parties to the Treaty, bearing in mind their expertise and interest in the subject-matter of the Treaty, equitable geographical distribution, as well as the need to include members from countries with substantial nuclear programmes. It was emphasized that the Commission was to deal with technical subjects where detailed technical knowledge was necessary. The experts further proposed that the costs of the Commission should be borne by Parties to the Treaty in accordance with the OAU scale of assessment, though the Commission would also be allowed to seek special funding when necessary. Should any country become a party to the Treaty before being a member of OAU, they would be assessed in accordance with what they would have paid had they been a member.

23. The experts recommended a complaints procedure which ranged from bilateral consultations and arrangements between parties, intervention by the Commission, and requests by the Commission to IAEA to undertake extraordinary inspections. In the event the Commission decides the Party complained of is in breach of its obligations, it would meet and decide upon the course of action to take.

24. The experts recommended that there be three Protocols to the Treaty. The first would be addressed to the nuclear-weapon States and would have them undertake not to use or threaten to use under any circumstances nuclear weapons against Parties to the Treaty or against any territory within the African Nuclear-Weapon-Free Zone, and not to contribute to any act of a Party to the Treaty which constitutes a violation of the Treaty, or any act of another Party to a Protocol which constitutes a violation of the Protocol. The second Protocol, also addressed to the nuclear-weapon States, would have those Powers undertake not to test or assist or encourage the testing of any nuclear explosive device anywhere within the African Nuclear-Weapon-Free Zone. The third Protocol, addressed to extra-zonal States responsible for territories situated within the African Nuclear-Weapon-Free Zone, shall have those countries undertake to apply in respect of such territories the obligations contained in the African Nuclear-Weapon-Free Zone Treaty as they relate to research, development, manufacture, stockpiling, acquisition, possession, stationing and testing of any nuclear explosive devices, as well as to the dumping of radioactive waste, ensuring physical protection and prohibition of armed attacks on nuclear installations within those territories, and the application of safeguards.

25. A draft text of a treaty along these lines, which was considered by the experts, is attached.

26. While substantive progress had been made during this Meeting, the experts wished to emphasize that, owing to a lack of time, they had been unable to complete consideration of the Proposals and the Working Text listed above under paragraph 9 (a) and (b). The experts therefore agreed to request the Secretary-General of the United Nations, in consultation with OAU, to convene a further meeting of the Group of Experts, in order to enable the Group to finalize the drafting of a Treaty on a Nuclear-Weapon-Free Zone in Africa.

27. In concluding their work at this Harare Meeting, the Group of Experts would like to express their appreciation to the United Nations Secretary-General for the diligence with which the United Nations rendered effective technical support and financial assistance for the work of the Group.

APPENDIX

United Nations/Organization of African Unity Group of Experts: Harare draft text of an African Nuclear-Weapon-Free Zone Treaty

Article 1. Usage of terms

For the purposes of this Treaty and its Protocols:

(a) "African Nuclear-Weapon-Free Zone" means the continent of Africa and the adjoining islands as described in annex 1, and as illustrated by the map attached to that annex;

(b) "Territory" means internal waters, territorial sea, and archipelagic waters, the seabed and sub-soil beneath, the land territory and the airspace above them;

(c) "Nuclear explosive device" means any nuclear weapon or other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used. The term includes such a weapon or device in unassembled and partly assembled forms, but does not include the means of transport or delivery of such a weapon or device if separable from and not an indivisible part of it;

(d) "Stationing" means implantation, emplacement, transportation on land or inland waters, stockpiling, storage, installation and deployment;

(e) "Dumping" means disposing of, unloading, depositing (i.e. its normal usage);

(f) "Nuclear installations" include nuclear power and research reactors, fuel fabrication, uranium enrichment, isotopes separation and reprocessing facilities as well as any other installations with fresh or irradiated nuclear fuel and materials in any form and establishments storing significant quantities of radioactive materials.

Article 2. Application of the Treaty

Except where otherwise specified, this Treaty and its Protocols shall apply to the territory within the African Nuclear-Weapon-Free Zone.

Article 3. Renunciation of nuclear explosive devices

Each Party undertakes:

(a) Not to undertake research, develop, manufacture, stockpile or otherwise acquire, possess or have control over any nuclear explosive device by any means anywhere;

(b) Not to seek or receive any assistance in the research, development, manufacture, stockpiling or acquisition, or possession of any nuclear explosive device;

(c) Not to take any action to assist or encourage the research, development, manufacture, stockpiling or acquisition, or possession of any nuclear explosive device by any State;

(d) To prohibit, in its territory, the stationing of any nuclear explosive device.

Article 4. Prohibition of testing of nuclear explosive devices

Each Party undertakes:

(a) Not to test any nuclear explosive device;

(b) To prohibit in its territory the testing of nuclear explosive devices;

(c) Not to assist or encourage the testing of any nuclear explosive device by any State anywhere.

Article 5. Declaration, dismantling, destruction or conversion of nuclear explosive devices and the facilities for their manufacture

Each Party undertakes:

(a) To declare any capability for the manufacture of nuclear explosive devices;

(b) To dismantle and destroy any nuclear explosive device that it has manufactured prior to the coming into force of this Treaty;

(c) To destroy facilities for the manufacture of nuclear explosive devices, or, where possible, to convert to peaceful uses;

(d) To permit international inspectors to ascertain the processes of dismantling and destruction of the nuclear explosive devices, as well as the destruction or conversion of the facilities for their production.

Article 6. Prohibition of dumping of radioactive wastes

Each Party undertakes:

(a) To support effective implementation of and apply measures equivalent to those contained in the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa in so far as it is relevant to radioactive waste;

(b) Not to take any action to assist or encourage the dumping of radioactive wastes and other radioactive matter anywhere within the African Nuclear-Weapon-Free Zone.

Article 7. Peaceful nuclear activities

1. Nothing in this Treaty shall be interpreted to prevent the use of nuclear energy for peaceful purposes.

2. As part of their efforts to strengthen their security, stability and development, the Parties undertake to promote individually and jointly the use of nuclear energy for economic and social development (purposes). To this end they undertake to establish and strengthen mechanisms for cooperation at the bilateral, subregional and regional levels.

3. Parties undertake to make full use of the programme of assistance available in the IAEA and, in this connection, to strengthen AFRA.

Article 8. Verification of peaceful uses

Each Party undertakes:

(a) That all activities for the peaceful use of nuclear energy shall be conducted under strict non-proliferation measures to provide assurance of exclusively peaceful uses;

(b) To conclude a comprehensive safeguards agreement with the IAEA;

(c) Not to provide sources or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material for peaceful purposes to:

(i) Any non-nuclear-weapon State unless subject to a comprehensive safeguards agreement concluded with the International Atomic Energy Agency;

(ii) Any nuclear-weapon State unless subject to applicable safeguards agreements concluded with the International Atomic Energy Agency.

Article 9. Physical protection of nuclear materials and facilities

Each Party undertakes:

(a) To maintain the highest standards of security and effective physical protection of nuclear materials, facilities and equipment to prevent theft or unauthorized use and handling;

(b) To apply measures of physical protection that provide protection equivalent to that provided for in the Convention on Physical Protection of

Materials and International Transfer Guidelines on protection of materials developed by the International Atomic Energy Agency for that purpose.

Article 10. Prohibition of armed attack on nuclear installations

Each Party undertakes not to take, or assist, or encourage any action aimed at an armed attack by conventional or other means against nuclear installations in the African Nuclear-Weapon-Free Zone.

Article 11. Mechanism for compliance

1. For the purposes of ensuring compliance with their undertakings with respect to both the activities prohibited in the interest of non-proliferation and those permissible for the promotion of peaceful uses of nuclear energy, the Parties agree to establish the African Commission on Nuclear Energy (hereafter referred to as the Commission).

2. The Commission shall be responsible for:

(a) Collating the reports and the exchange of information as provided for in Article 12;

(b) Arranging consultations as provided for in Article 13;

(c) Reviewing the application to peaceful nuclear activities of safeguards by the IAEA as elaborated in annex 2;

(d) Bringing into effect the complaints procedure elaborated in annex 4;

(e) Encouraging regional programmes for cooperation in the peaceful uses of nuclear energy; and

(f) Promoting international cooperation with extra-zonal States for the peaceful uses of nuclear energy.

3. The Commission shall meet once a year, and may meet in extraordinary session as may be required by the complaints procedure in annex 4.

Article 12. Report and exchanges of information

1. Each Party shall submit an annual report to the Commission on all its nuclear activities.

2. Each Party shall promptly report to the Commission any significant event affecting the implementation of the Treaty.

3. The Commission shall receive an annual report from the Secretariat of the [African Regional Cooperation Agreement] on the activities of AFRA.

Article 13. Amendments

1. Any amendment to the Treaty proposed by a Party shall be submitted to the Commission, which shall circulate it to all Parties.

2. A conference of Parties shall be convened to consider such amendment.

3. Decision on the adoption of such an amendment shall be taken by a two-thirds majority of the Parties.

4. An amendment so adopted shall enter into force after receipt by the depositary of the twenty-seventh instrument of ratification.

Article 14. Reservations

This Treaty shall not be subject to reservations.

Article 15. Duration and withdrawal

1. This Treaty shall be of unlimited duration and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events, related to the subject-matter of this Treaty, have jeopardized its supreme interests.

2. Withdrawal shall be effected by a Party giving notice, which includes a statement of the extraordinary events it regards as having jeopardized its supreme interests, twelve months in advance to the Depositary. The Depositary shall circulate such notice to all other Parties.

Article 16. Signature, ratification and entry into force

1. This Treaty shall be open for signature by any State in the African Nuclear-Weapon-Free Zone. The Treaty shall be subject to ratification.

2. This Treaty shall enter into force on the date of deposit of the twenty-seventh instrument of ratification.

3. For a signatory which ratifies this Treaty after the date of the deposit of the twenty-seventh instrument of ratification, the Treaty shall enter into force on the date of deposit of its instrument of ratification.

4. This Treaty and the instruments of ratification shall be deposited with the Secretary-General of the Organization of African Unity, who is hereby designated as depositary of the Treaty.

Article 17. Depositary functions

The depositary of this Treaty shall:

(a) Register this Treaty and its Protocols pursuant to Article 102 of the Charter of the United Nations;

(b) Transmit certified copies of the Treaty and its Protocols to all States in the African Nuclear-Weapon-Free Zone and to all States eligible to become a Party to the Protocols to the Treaty and shall notify them of signatures and ratifications of the Treaty and its Protocols.

Article 18. Status of the annexes

The annexes form an integral part of this Treaty. Any reference to this Treaty includes the annexes.

IN WITNESS WHEREOF the undersigned being duly authorized by their Governments have signed this Treaty.

DONE AT _____

Annex 1. African Nuclear-Weapon-Free Zone

(Description of geographical parameters)

[Attachment to annex 1 to the African Nuclear-Weapon-Free Zone Treaty - illustrated map].*

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* The illustrated map, which would be an attachment to annex 1 to the African Nuclear-Weapon-Free Zone Treaty, is to be discussed at a subsequent meeting and is not available at this time.

Annex 2. IAEA safeguards

1. The safeguards referred to in Article 11 shall in respect of each Party be applied by the International Atomic Energy Agency as set forth in an agreement negotiated and concluded with the International Atomic Energy Agency on all source or special fissionable material in all nuclear activities within the territory of the Party, under its jurisdiction or carried out under its control anywhere.

2. The Agreement referred to in paragraph 1 shall be, or shall be equivalent in its scope and effect to, an agreement required in connection with the Treaty on the Non-Proliferation of Nuclear Weapons. Each Party shall take all appropriate steps to ensure that the Agreement referred to in paragraph 1 is in force for it not later than eighteen months after the date of entry into force for that Party of this Treaty.

3. For the purpose of this Treaty, the safeguards referred to in paragraph 1 shall have as their purpose the verification of the non-diversion of nuclear material from nuclear activities to nuclear explosive devices or for purposes unknown.

4. Each Party shall transmit to the Commission, for its information, a copy of the overall conclusions of the most recent report by the IAEA on its inspection activities in the territory of the Party concerned, and advise the Commission promptly of any subsequent findings of the IAEA in relation to those conclusions. The information furnished by the contracting Parties shall not be, totally or partially, disclosed or transmitted to third parties, by the addressees of the reports, except when the contracting Parties give their express consent.

Annex 3. African Commission on Nuclear Energy

1. There is hereby established an African Commission on Nuclear Energy which shall meet from time to time pursuant to Articles 7, 8, 11 and 13 and annex 4.

2. The Commission shall be composed of twelve members elected by Parties to the Treaty, bearing in mind their expertise and interest in the subject-matter of the Treaty, equitable geographical distribution, as well as the need to include countries with advanced nuclear programmes.

3. Members of the Commission shall be elected for a three-year period. A quorum shall be constituted by representatives of two thirds of the members of the Commission. Decisions of the Commission shall be taken by a two-thirds majority of those present and voting. The Commission shall adopt such other rules of procedure as it sees fit.

4. (a) The costs of the Commission, including the costs of extraordinary inspections, pursuant to annex 4 to this Treaty, shall be borne by the Parties to the Treaty in accordance with the OAU scale of assessment.

(b) The Commission may also seek special funding should this be required.

Annex 4. Complaints procedure

1. A Party which considers that there are grounds for a complaint that another Party is in breach of its obligations under this Treaty shall bring the subject-matter of the complaint to the attention of the Party complained of and shall allow the latter reasonable opportunity to provide it with an explanation and to resolve the matter. This may include technical visits agreed upon between the Parties.

2. If the matter is not so resolved, the complainant Party may bring the complaint to the Commission.

3. The Commission, taking account of efforts made under paragraph 1, shall afford the Party complained of a reasonable opportunity to provide it with an explanation of the matter.

4. If, after considering any explanation given to it by the representatives of the Party complained of, the Commission decides that there is sufficient substance in the complaint to warrant an extraordinary inspection in the territory of that Party or elsewhere, the Commission shall request the IAEA to conduct such inspection as soon as possible. The Commission may request that its representatives accompany the inspection team.

(a) The request shall indicate the tasks and objectives of such inspection, as well as any confidentiality requirements.

(b) If the Party complained of so requests, IAEA shall be accompanied by representatives of that Party provided that the inspectors shall not be thereby delayed or otherwise impeded in the exercise of their functions.

(c) Each Party shall give the IAEA and/or Regional inspectors full and free access to all information and places within each territory which may be deemed relevant by the inspectors to the implementation of the extraordinary inspection.

(d) The Party complained of shall take all appropriate steps to facilitate the work of IAEA and/or Regional inspectors, and shall accord to the inspectors the same privileges and immunities as those set forth in the relevant provisions of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency.

(e) The International Atomic Energy Agency and/or Regional inspectors shall report in writing as quickly as possible to the Commission, outlining their activities, setting out relevant facts and information as ascertained by it, with supporting evidence and documentation as appropriate, and stating their conclusions. The Commission shall report fully to all States Parties to the Treaty giving its decision as to whether the Party complained of is in breach of its obligations under this Treaty.

(f) If the Commission has decided that the Party complained of is in breach of its obligations under this Treaty, or that the above provisions have not been complied with, or at any time at the request of either the complainant

or complained of Party, the Commission shall meet promptly to discuss the matter.

(g) The costs of such inspections shall be borne by the Commission.

5. Extraordinary inspections will not prejudice the rights and the power of the International Atomic Energy Agency to carry out special inspections in accordance with the agreements referred to in paragraph 1 of annex 2 to this Treaty.

Protocol 1

The Parties to this Protocol

NOTING the African Nuclear-Weapon-Free Zone Treaty (the Treaty)

HAVE AGREED as follows:

Article 1

Each Party undertakes not to use or threaten to use under any circumstances a nuclear explosive device against:

(a) Parties to the Treaty; or

(b) Any territory within the African Nuclear-Weapon-Free Zone as defined in annex 1 of the Treaty.

Article 2

Each Party undertakes not to contribute to any act of a Party to the Treaty which constitutes a violation of the Treaty, or any act of another Party to a Protocol which constitutes a violation of the Protocol.

Article 3

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 13 of the Treaty.

Article 4

This Protocol shall be open for signature by [the French Republic, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America].

Article 5

This Protocol shall be subject to ratification.

Article 6

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject-matter of this Protocol, have

jeopardized its supreme interests. It shall give notice of such withdrawal to the depositary twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article 7

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorized by their Governments, have signed this Protocol.

DONE at _____

Protocol 2

The Parties to this Protocol

NOTING the African Nuclear-Weapon-Free Zone Treaty (the Treaty)

HAVE AGREED as follows:

Article 1

Each Party undertakes not to test or assist or encourage the testing of any nuclear explosive device anywhere within the African Nuclear-Weapon-Free Zone.

Article 2

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about by entry into force of an amendment to the Treaty pursuant to Article 13 of the Treaty.

Article 3

The Protocol shall be open for signature by [the French Republic, the People's Republic of China, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America].

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This Protocol shall be subject to ratification.

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Article 6

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorized by their Governments, have signed this Protocol.

DONE at _____

Protocol 3

The Parties to this Protocol

NOTING the African Nuclear-Weapon-Free Zone Treaty (the Treaty)

HAVE AGREED as follows:

Article 1

Each Party undertakes to apply, in respect of the territories for which it is internationally responsible situated within the African Nuclear-Weapon-Free Zone, the prohibitions contained in Articles 3, 5, 6, 7, 8 and 9 of the Treaty, in so far as they relate to research, development, manufacture, stockpiling, stationing and testing of any nuclear explosive devices, as well as to the dumping of nuclear waste, ensuring physical protection and prohibition of armed attacks on nuclear installations within those territories, and the safeguards specified in Article 11 (2) (c) and annex 2 of the Treaty.

Article 2

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 13 of the Treaty.

Article 3

This Protocol shall be open for signature by [ ].

Article 4

This Protocol shall be subject to ratification.

Article 5

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject-matter of this Protocol have jeopardized its supreme interests. It shall give notice of such withdrawal to the depositary twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article 6

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

IN WITNESS WHEREOF the undersigned, being duly authorized by their Governments, have signed this Protocol.

DONE at _____